

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
WESTERN DIVISION

Cody Prudente, as Personal Representative)
of the Estate of John Prudente, Jr.,)
deceased,)

Sandra Prudente, and)

John Prudente, Sr.,)

Plaintiffs,)

v.)

Mary Hamilton, individually and in her)
official capacity as a City of Mandan)
Police Officer,)

Joshua Scherr, individually and in his)
official capacity as a City of Mandan)
Police Officer,)

Dominic Hanson, individually and in his)
official capacity as a City of Mandan)
Police Officer,)

Peter Czapiewski, individually and in his)
official capacity as a Lieutenant of City of)
Mandan Police,)

David Raugust, individually and in his)
official capacity as a Sergeant of City of)
Mandan Police, and)

City of Mandan,)

Defendants.)

Civil No: 1:22-cv-00024

**AFFIDAVIT OF MARY TERNES,
FKA MARY HAMILTON**

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF MORTON)

The undersigned, herein being duly sworn and deposed, states the following:

Mandan Police Department

Officer Hamilton

Re: Prudente Statement

02/10/2019

1. On 02/08/2020 at approximately 1650 hours, I, Officer Hamilton, was parked in my patrol vehicle on the 400 block of 3rd St SW. I observed a Ford Fusion traveling west bound on 3rd St that had expired registration tags. I pulled out behind the vehicle, activated my emergency lights, and initiated a traffic stop. The vehicle came to a stop right around 5th Ave SW and 3rd St.
2. I approached the vehicle and made contact with the driver, John Prudente Jr. I informed Mr. Prudente I had stopped him due to having expired tags on the vehicle. He told me his family buys cars, and this is one that they had just gotten back. I asked him for his driver's license, registration tag, and insurance. Mr. Prudente searched through two wallets and gave me his driver's license. His driver's license was expired. He was unable to find his registration, or insurance. He did tell me the car was insured. I told him, that was fine if he wanted to continue to look for the insurance card, I would return to my vehicle and be back with him just shortly.
3. I returned to my vehicle. I had dispatch run a warrant, and driver's license check on Mr. Prudente. I then began typing a citation for expired registration. Dispatch advised that Mr. Prudente had an unconfirmed bench warrant through the city of Bismarck for parking citations. Another Officer Advised that Sergeant Raugust was in route to my location. I continued typing the citation for expired registration. I printed the citation out and began typing a citation for expired driver's license. Dispatch confirmed the warrant was active through Bismarck.
4. I observed Sergeant Raugust's patrol vehicle approaching the traffic stop. I got out of my car and returned to the driver's side window of Mr. Prudente's vehicle. I explained to Mr. Prudente that he had a warrant. I told him it was for parking citations. Mr. Prudente told me something to the effect that the warrant was not that kind of warrant and he would not be arrested for it. Sergeant Raugust was now at the passenger side window of Mr. Prudente's vehicle. I explained to Mr. Prudente it was a warrant, and I would need him to step out of the vehicle. He told me something to the effect of he did not need to be threatened or harassed over this. I told him I was not doing that, that he needed to step out of the car. Sgt. Raugust opened the passenger side door. Simultaneously Mr. Prudente looked at me and told me something to the effect of he was not being arrested or was not going to jail, put the car in drive and took off. I notified dispatch that he was fleeing west bound on 3rd St SW. I watched Mr. Prudente's vehicle. The vehicle then turned Northbound on 7th Ave SW. I advised dispatch. I then returned to my patrol vehicle. Sergeant Raugust had already gotten back in his patrol vehicle and went around me west bound on 3rd St. SW. I followed in the same direction. I turned onto 7th Ave SW and heard Sergeant Raugust advise over the radio he had located the vehicle at a residence on 7th Ave SW. I do not know if he said a specific house number. I observed his patrol vehicle, I pulled up behind it, parked, and got out of the car.

5. When I exited my patrol vehicle, I did not see Mr. Prudente or Sergeant Raugust. I could hear a active Taser deployment, coming from the back of a residence. I then heard yelling from the same direction. I advised dispatch a Taser had been deployed, and that he was fighting.
6. I ran in the direction of the house, as I was approaching, I could hear yelling, and a fence rattle from the North side of the residence. I went to the front North side of the residence and observed Mr. Prudente at the fence, he was yelling. He then ran around the back of the house. I ran back to the south side of the residence and began running down the driveway. I observed Mr. Prudente appear from the back of the residence. I pulled my Taser and pointed it at him. I told him to get on the ground. I then observed Sergeant Raugust appear from the back of the residence. I continued approaching closer. At this time Mr. Prudente was still yelling and almost pacing between the Sergeant and myself. Sergeant Raugust grabbed ahold of Mr. Prudente by the top of his body and his shoulder. I ran over to them and grabbed ahold of him on the other side. Mr. Prudente would not comply to any verbal commands. I pulled my taser out and drive stunned Mr. Prudente in the right buttocks. While this was going on Mr. Prudente arched his back but was moving so much that I was unable to hold the Taser on him. I stepped back, thinking that if I could get a clear shot with the Taser prongs, we may be able to gain compliance of Mr. Prudente. I deployed the Taser prongs into Mr. Prudente back side waist area. The spread from prong to prong was not very far. Maybe 8-10 inches. This did not seem to faze Mr. Prudente and he continued to resist. I holstered my Taser and tried to grab ahold of Mr. Prudente's right side. Mr. Prudente was swinging his arms. Sergeant Raugust and Mr. Prudente fell over and I went with them. There were a stack of windows leaning up against something. The windows fell over and shattered as we went to the ground. I was on Mr. Prudente's lower half right side, and Sergeant Raugust was on his upper half left side on concrete stairs at the back door of the residence. He was face down. He was still resisting. Mr. Prudente was kicking his legs and moving trying to roll around. I again attempted a drive stun to his right thigh of his leg. This had no effect. I delivered multiple knee strikes to his common peroneal on his right thigh. This also had no effect. Other officers then approached to assist. Lieutenant Czapiewski came from my right side. Mr. Prudente was grabbing ahold of the railing on the cement stairs. Lieutenant Czapiewski began pulling his hand off the railing. He was able to pull his arm behind his back. Sergeant Raugust forced his left arm behind his back, and I placed Mr. Prudente in handcuffs. I then instantly stood up and back away from him. I was out of breath and was attempting to catch my breath. Mr. Prudente was still kicking his legs.
7. While we were struggling with Mr. Prudente, his father was pacing around us. He continued to yell at us that Mr. Prudente had mental issues and to let him talk to Mr. Prudente. A short time after that a female, Mr. Prudente's mother, continued to try to approach us. She kept saying that she would calm him down. At one point one of them stated to just leave him alone.
8. Other officers had arrived. Lieutenant Czapiewski advised dispatch to send metro to have Mr. Prudente medically cleared. I observed Lieutenant Czapiewski and Officer Scherr holding onto Mr. Prudente. Mr. Prudente was laying on his left side. I then approached my Sergeant who was holding his eye. I told him to let me look at him, as I did not know the extent of his injuries.

9. Officer Scherr then said Mr. Prudente was having medical issues. Officer Scherr informed dispatch to have metro run code to our location. Lieutenant Czapiewski removed handcuffs from Mr. Prudente. Officer Hauck began a sternum rub to which Mr. Prudente did not respond. Officer Scherr began CPR. An officer grabbed the AED out of my patrol vehicle. The pads were placed on Mr. Prudente. While CPR was being performed the AED informed us no shock was advised. CPR was continued. Metro arrived and began to assess Mr. Prudente. Mr. Prudente was loaded onto metro ambulance's cot. He was taken to the ambulance.
10. I eventually returned to my vehicle and stayed there until Officer Scherr gave me a ride back to the police department.

Officer Hamilton 258

02/10/2020

M. TerneS #258

MARY TERNES

Formerly MARY Hamilton

August 9th, 2023

August 9th, 2023

